

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Bail Appl.No. 4573 of 2007()

CRIME NO. 145/07 OF ATHUR POLICE STATION

PETITIONERS : ACCUSED:

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1. A.B.IQBAL, S/O.A.B.KUNHAMU,
AMMANGOD, POVVAL, MULIYAR, KASARAGODE.
 2. A.B.KALAM, S/O.A.B.KUNHAMU,
ABK HOUSE, MULIYAR, KASARAGODE.
 3. A.B.RAFEEK, S/O.A.B.ABDULRAHIMAN HAJI,
8TH MILE, POVVAL, MULIYAR, KASARAGODE.
 4. JAMU @ SAMEER, S/O.TIPU AHMED,
POVAL HOUSE, MULIYAR, KASARAGODE.
 5. RAHEEM, S/O. ABOBACKER,
THEKKEMOLA HOUSE, VIDYANAGAR.
 6. SHERIEF, S/O.KAMARAJ ABDUL RAHIMAN HAJI,
KOTA HOUSE, POVVAL KASARAGODE.
 7. NAZAR, S/O.PALLAM ABDULLA HAJI,
KOTA HOUSE, POVVAL, KASARAGODE.
 8. S.K.ABDULLA, S/O.MOHAMMED KUNHI,
8TH MILE HOUSE, POVVAL, KASARAGODE.
 9. A.B.MOHAMMED KUNHI, S/O.A.B.ANDUKA,
POVVAL, AMANGODE, KASARAGODE.
 10. SHERIEF, S/O.CHAKKARA ABOOBACKER,
CHAKKAR HOUSE, POVVAL, KASARAGODE.
 11. ANSARI, S/O.ABDUL RAHIMAN,
RESIDING AT POVVAL, MULIYAR, KASARAGODE.

BY ADV. SRI.T.G.RAJENDRAN
SRI.T.R.TARIN

RESPONDENTS: COMPLAINANT AND STATE:

1. THE SUB INSPECTOR OF POLICE,
ATHUR POLICE STATION.
2. STATE REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 4573 of 2007

Dated this the 3rd day of August, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 to 11. Altogether there are 11 accused persons. The crux of the allegations is that on account of political animosity, the petitioners, who belong to the I.U.M.L., attacked the victims, two in number, who belonged to C.P.M. and who were allegedly proceeding on a two wheeler. The two wheeler was intercepted, chilly water was thrown on their face and attack was made with iron rods. The petitioners have criminal antecedents also, it is submitted Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They are arrayed as accused in various crimes only because of political animosity. The victims have not suffered any serious injuries. About the incident alleged in this case, there are allegations and counter allegations. Because of the political clout of the injured persons in this case, no counter case has been registered at all. In these circumstances the petitioners may be

saved of the trauma of undeserved arrest and detention. Anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Prosecutor opposes the application. He submits that the available indications suggest that the petitioners, who, according to the prosecution, have indulged in crimes connected with political conflicts, have indulged in the culpable conduct alleged in this case because of such animosity. At any rate, there are no circumstances justifying or warranting the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C., submits the learned Prosecutor.

4. Having considered all the relevant inputs, I am satisfied that there are no circumstances which can persuade this Court to invoke the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioners appear before the Investigating Officer or the learned Magistrate having jurisdiction and apply for bail after giving sufficient

prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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